

United States District Court for the
Southern District of New York

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UNITED STATES OF AMERICA,

Plaintiff,

v.

LEBANESE CANADIAN BANK SAL, ELLISSA
HOLDING COMPANY, HASSANAYASH EXCHANGE
COMPANY, CYBAMAR SWISS GMBH, LLC, STE
NOMEKO SARL, STE MARCO SARL, and THE
SALHAB TRAVEL AGENCY,

Defendants;

ALL ASSETS OF LEBANESE CANADIAN BANK : 11 CIV 9186 (PAE)
SAL OR ASSETS TRACEABLE THERETO; ALL
ASSETS OF ELLISSA HOLDING COMPANY; ALL
ASSETS OF HASSAN AYASH EXCHANGE
COMPANY; ALL ASSETS OF CYBAMAR SWISS
GMBH, LLC, STE MARCO SARL, STE NOMEKO
SARL, AND THE SALHAB TRAVEL AGENCY,
INCLUDING BUT NOT LIMITED TO ALL FUNDS
ON DEPOSIT IN THE BANK ACCOUNTS AS
PARTICULARLY DESCRIBED IN SCHEDULE A;
and ALL ASSETS OF 30 USED CAR BUYERS
IN THE UNITED STATES LISTED IN
SCHEDULE A, INCLUDING BUT NOT LIMITED
TO APPROXIMATELY \$248 MILLION
PREVIOUSLY ON DEPOSIT AT APPROXIMATELY
57 BANK ACCOUNTS, AS DESCRIBED IN
SCHEDULE A, AND ALL PROPERTY TRACEABLE
THERETO,

Defendants *in rem*.

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MOTION TO DISMISS COMPLAINT FOR IMPROPER VENUE PURSUANT
TO FED R. CIV. P., RULE 12(b)(3) AND SUPPLEMENTAL RULE G(8)(b) (ON
BEHALF OF HIJAZI GENERAL TRADING, LLC, DEFENDANT *IN REM*

HIJAZI GENERAL TRADING, LLC, by Joseph J. D'Erasmio and Deane A. Shure,

JOSEPH J. D'ERASMO
&
ASSOCIATES
103 North Adams Street
Rockville, Maryland 20850-2217
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its attorneys, files this Motion to Dismiss the Civil Forfeiture Complaint filed against its property and states in support of this Motion as follows:

1. As shown by paragraph 19 in Exhibit A, Hijazi General Trading, LLC is located in Burtonsville, Maryland, and the account claimed to be subject to forfeiture is an account held in its name at the Sandy Spring National Bank in Columbia, Maryland. It is also an indisputable fact that Hijazi General Trading, LLC is a Maryland Limited Liability Corporation.

2. There are no facts stated in the Verified Complaint that allege that Hijazi General Trading has any accounts located in New York, has sold used cars in New York or has done any business in New York, of any nature whatsoever. None of its property is found there, nor has it been brought there.

3. The two directly relevant venue statutes which could be said to govern this forfeiture proceeding are 28 U.S.C.S. § 1395 and 28 U.S.C. § 1355. The former states, in essence, that a civil forfeiture proceeding may be brought in the district where such property is found (as opposed to a civil penalty or fine which may be recovered where it accrues; not relevant here) or where the property is brought.

4. 28 U.S.C. § 1355 provides that a forfeiture proceeding may be brought in “the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred.” This is the statute on which the Government relies to claim venue, generally, as to all Defendants and Defendants *in rem* in this action. (See Verified Complaint, paragraph 11.)

However, no facts are alleged in the Verified Complaint specifically as to Hijazi General Trading, LLC, which detail what, if any, acts or omissions have been carried out by Hijazi in the district of New York, which would give rise to any forfeiture of its property there.

Under these circumstances, the Defendant *in rem*, Hajazi General Trading, LLC, urges that this Court dismiss the Verified Complaint on the basis of improper venue, and the consequent violation of due process as to Hijazi General Trading pursuant to FED.R. CIV. P. 12(b)(3) and Supplemental Rule G(8)(b) for asset forfeiture actions.

Respectfully submitted,

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/s/
JOSEPH J. D'ERASMO

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/s/
DEANE A. SHURE
103 North Adams Street
Rockville, Maryland 20850
301-762-8865, 301-762-8860
Attorneys for Hijazi General Trading, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of April, 2012 I electronically filed the foregoing document with the Clerk of Court using the ECF system which will send notice of the filing to all filing parties of record. I further certify that I will mail the foregoing document to the following non-filing users:

Deane A. Shure, Esq.
103 North Adams Street
Rockville, Md. 20850

Warner F. Young, III
11350 Random Hills Road, #700
Fairfax, Va.

—
/s/
JOSEPH J. D'ERASMO

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